

Service Date: September 30, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of a Commission)	
Investigation of Electricity)	UTILITY DIVISION
Market Activity Affecting Retail)	
Customers During the Period 2000)	DOCKET NO. D2004.2.21
Through 2001)	ORDER NO. 6531e

PROTECTIVE ORDER

On July 23, 2004, Commercial Energy of Montana (“CEM”) filed a Motion for Protective Order in this docket¹ accompanied by an Affidavit of Ronald L. Perry (“Perry Affidavit”) and a Memorandum in Support of Request for Protective Order. The Motion requests protection for certain information to be provided pursuant to a subpoena duces tecum issued on June 10, 2004. The certain information is (1) a spreadsheet showing, by month, the weighted average price of electricity bought by CEM from wholesale suppliers during the period 2000-2001; (2) a spreadsheet showing, by month, the weighted average price of electricity sold by CEM to its retail customers during the period 2000-2001; and (3) the identity of wholesale sellers of electricity from whom CEM purchased electricity during the period 2000-2001. The information reveals CEM’s procurement practices and sales prices on a monthly basis. Perry Aff., p.1. From the information a person can determine CEM’s monthly profits and/or losses and its competitive purchasing, risk management and marketing strategies. Perry Aff., p.1-2. CEM maintains that release of the information would reduce the number of companies willing to submit offers to it and harm its competitive position. Id. at p.2. CEM contends the information is trade secret under Montana law.

The Commission determines that CEM has met the requirements of ARM 38.2.5007, and has made a prima facie showing that the information described is confidential information

¹ The filing was originally captioned “In the Matter of NorthWestern Energy’s Application for Electric Supply Deferred Account Balance and Projected Electric Supply Cost – Docket D2004.6.90.” Corrected pages were filed on June 27, 2004.

pursuant to ARM 38.2.5001(1). CEM's Motion is granted. Information submitted in accordance with this Order will be treated as confidential information under the terms of this Order and Commission protective order rules, ARM 38.2.5001-5030.

This Order may be challenged at any time pursuant to ARM 38.2.5008. CEM is reminded that following the issuance of this Order it must comply with ARM 38.2.5016.

The PSC is presently considering necessary changes, if any, to its protective order process as a result of litigation. All protective orders issued until the question of changes has been resolved are subject to modification. Providers will be notified and provided an opportunity to respond in the event modification of this protective order is required.

Done and dated this 10th day of August 2004, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

TOM SCHNEIDER, Vice-Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of the granting of a protective order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No., D2004.2.21 Order No. 6531e
Order Action Date: September 30, 2004

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented